

Senate Engrossed

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

# SENATE BILL 1523

AN ACT

AMENDING SECTIONS 28-363 AND 28-3157, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 8, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-3323; MAKING AN APPROPRIATION; RELATING TO TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



STATE OF ARIZONA

OFFICE OF THE GOVERNOR

1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

JANET NAPOLITANO  
GOVERNOR

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May 20, 2005

The Honorable Ken Bennett  
Senate President  
Arizona State Senate  
1700 West Washington Street  
Phoenix, Arizona 85007

Re: Senate Bill 1523: transportation; budget

Dear President Bennett:

Today I vetoed Senate Bill 1523, which would require Motor Vehicle Division employees to confiscate possible fraudulent documents (pending further investigation of these documents) when reviewing driver's license application.

The recent passage of the Federal REAL ID Act (H.R. 1268) will result in significant changes to the driver's license and identification card issuance processes for customers and Motor Vehicle Divisions across the country. I intend to ensure that Arizona fully complies with this new federal law. Implementing additional changes to the driver's license issuance process before the impact of H.R. 1268 is known would cause great confusion and create an unnecessary burden on the citizens of Arizona at this time.

For these and other reasons, Senate Bill 1523 should not become law.

Yours very truly,

A handwritten signature of Janet Napolitano in black ink, followed by a horizontal line.

Janet Napolitano  
Governor

JN:TN/jm

cc: The Honorable Jim Weiers  
The Honorable Robert Burns

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-363, Arizona Revised Statutes, is amended to  
3 read:

4 28-363. Duties of the director; administration

5 A. The director shall:

6 1. Supervise and administer the overall activities of the department  
7 and its divisions and employees.

8 2. Appoint assistant directors for each of the divisions.

9 3. Provide for the assembly and distribution of information to the  
10 public concerning department activities.

11 4. Delegate functions, duties or powers as the director deems  
12 necessary to carry out the efficient operation of the department.

13 5. Exercise complete and exclusive operational control and  
14 jurisdiction over the use of state highways and routes.

15 6. Coordinate the design, right-of-way purchase and construction of  
16 controlled access highways that are either state routes or state highways and  
17 related grade separations of controlled access highways.

18 7. Coordinate the design, right-of-way purchase, construction,  
19 standard and reduced clearance grade separation, extension and widening of  
20 arterial streets and highways under chapters 17 and 18 of this title.

21 8. Assist regional transportation planning agencies, councils of  
22 government, tribal governments, counties, cities and towns in the development  
23 of their regional and local transportation plans to ensure that the streets,  
24 highways and other regionally significant modes of transportation within each  
25 county form an integrated and efficient regional system.

26 9. On or before December 1, present an annual report to the speaker of  
27 the house of representatives and the president of the senate documenting the  
28 expenditures of monies under chapters 17 and 18 of this title during the  
29 previous fiscal year relating to the design, right-of-way purchase or  
30 construction of controlled access highways that are accepted in the state  
31 highway system as state routes or state highways or related grade separations  
32 of controlled access highways that are included in the regional  
33 transportation plans of the counties.

34 10. Designate the necessary agencies for enforcing the provisions of  
35 the laws the director administers or enforces.

36 11. Exercise other duties or powers as the director deems necessary to  
37 carry out the efficient operation of the department.

38 12. Cooperate with the Arizona-Mexico commission in the governor's  
39 office and with researchers at universities in this state to collect data and  
40 conduct projects in the United States and Mexico on issues that are within  
41 the scope of the department's duties and that relate to quality of life,  
42 trade and economic development in this state in a manner that will help the  
43 Arizona-Mexico commission to assess and enhance the economic competitiveness  
44 of this state and of the Arizona-Mexico region.

1       13. Develop a plan to increase use of bypass routes by vehicles on days  
2 of poor visibility in the Phoenix metropolitan area.

3       14. ESTABLISH EMPLOYEE TRAINING PROGRAMS AND PROCEDURES TO IDENTIFY  
4 FRAUDULENT INFORMATION AND DOCUMENTS SUBMITTED TO THE DEPARTMENT BY A PERSON  
5 APPLYING PURSUANT TO CHAPTER 8 OF THIS TITLE FOR A DRIVER LICENSE, DRIVER  
6 PERMIT OR NONOPERATING IDENTIFICATION LICENSE, INCLUDING PROCEDURES TO  
7 FORWARD CHARGEABLE OFFENSES RELATED TO THE SUBMISSION OF FRAUDULENT  
8 INFORMATION OR FRAUDULENT DOCUMENTS TO THE COUNTY ATTORNEY IN THE COUNTY IN  
9 WHICH THE OFFENSE OCCURRED.

10       B. The assistant directors appointed pursuant to subsection A are  
11 exempt from the state personnel system.

12       C. The director shall not spend any monies, adopt any rules or  
13 implement any policies or programs to convert signs to the metric system or  
14 to require the use of the metric system with respect to designing or  
15 preparing plans, specifications, estimates or other documents for any highway  
16 project before the conversion or use is required by federal law, except that  
17 the director may:

18       1. Spend monies and require the use of the metric system with respect  
19 to designing or preparing plans, specifications, estimates or other documents  
20 for a highway project that is awarded before October 1, 1997 and that is  
21 exclusively metric from its inception.

22       2. Prepare for conversion to and use of the metric system not more  
23 than six months before the conversion or use is required by federal law.

24       Sec. 2. Section 28-3157, Arizona Revised Statutes, is amended to read:

25       28-3157. Temporary driver permits and nonoperating  
26 identification licenses

27       A. The department may issue a temporary driver permit to an applicant  
28 for a driver license OR PERMIT. The TEMPORARY DRIVER permit allows the  
29 driver to operate a motor vehicle while the department is completing its  
30 investigation and determining all facts relative to the applicant's privilege  
31 to receive a driver license OR PERMIT.

32       B. The A permittee shall have the permit in the permittee's immediate  
33 possession while operating a motor vehicle. The A permit is invalid when the  
34 permittee is issued a driver license or when a driver license is refused for  
35 good cause.

36       C. IF THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT ANY  
37 INFORMATION SUBMITTED TO THE DEPARTMENT IN AN APPLICATION FOR A NONOPERATING  
38 IDENTIFICATION LICENSE AS PRESCRIBED BY SECTION 28-3323 IS FRAUDULENT, THE  
39 DEPARTMENT SHALL INVESTIGATE THE INFORMATION AND DOCUMENTS SUBMITTED IN THE  
40 APPLICATION AND MAY ISSUE A TEMPORARY NONOPERATING IDENTIFICATION LICENSE  
41 UNTIL ITS INVESTIGATION IS COMPLETE.

42       D. TEMPORARY DRIVER PERMITS AND NONOPERATING IDENTIFICATION LICENSES  
43 ISSUED PURSUANT TO THIS SECTION SHALL NOT CONTAIN A PHOTOGRAPH OF THE  
44 APPLICANT IF THE DEPARTMENT IS CONDUCTING AN INVESTIGATION PURSUANT TO  
45 SECTION 28-3323.

1       Sec. 3. Title 28, chapter 8, article 6, Arizona Revised Statutes, is  
2 amended by adding section 28-3323, to read:

3       28-3323. Fraudulent driver license, driver permit or  
4               nonoperating identification license applications;  
5               cancellation; hearings

6       A. IF THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT THE  
7 INFORMATION OR DOCUMENTS CONTAINED IN AN APPLICATION FOR A DRIVER LICENSE,  
8 DRIVER PERMIT OR NONOPERATING IDENTIFICATION LICENSE ARE FRAUDULENT, THE  
9 DEPARTMENT SHALL EXAMINE THE INFORMATION AND DOCUMENTS SUBMITTED BY THE  
10 APPLICANT TO VERIFY THAT THE INFORMATION AND DOCUMENTS ARE VALID.

11       B. IF THE DEPARTMENT HAS REASONABLE GROUNDS TO BELIEVE THAT ANY  
12 INFORMATION OR DOCUMENT SUBMITTED BY AN APPLICANT MAY BE FRAUDULENT, THE  
13 DEPARTMENT SHALL RETAIN THE APPLICANT'S DOCUMENTS THE DEPARTMENT BELIEVES TO  
14 BE FRAUDULENT FOR FURTHER ANALYSIS AND VERIFICATION.

15       C. IF THE DEPARTMENT IS CONDUCTING AN INVESTIGATION PURSUANT TO  
16 SUBSECTION B OF THIS SECTION, THE DEPARTMENT SHALL ENTER IN ITS ELECTRONIC  
17 RECORDS THAT THE DEPARTMENT IS CONDUCTING FURTHER ANALYSIS AND VERIFICATION  
18 OF THE APPLICANT'S INFORMATION OR DOCUMENTS.

19       D. EXCEPT AS PROVIDED IN SECTION 28-3157, IF THE DEPARTMENT IS  
20 INVESTIGATING AN APPLICANT'S INFORMATION OR DOCUMENTS PURSUANT TO SUBSECTION  
21 B OF THIS SECTION, THE DEPARTMENT SHALL NOT ISSUE A DRIVER LICENSE, DRIVER  
22 PERMIT OR NONOPERATING IDENTIFICATION LICENSE TO THE APPLICANT WHILE THE  
23 DEPARTMENT IS ANALYZING AND VERIFYING THE INFORMATION OR DOCUMENTS.

24       E. ON DETERMINING THAT THE INFORMATION AND DOCUMENTS SUBMITTED BY AN  
25 APPLICANT ARE TRUE AND CORRECT, THE DEPARTMENT SHALL PROCESS THE APPLICATION  
26 AND SHALL REMOVE INFORMATION ENTERED INTO ITS ELECTRONIC RECORDS PURSUANT TO  
27 SUBSECTION C OF THIS SECTION.

28       F. IF THE DEPARTMENT DETERMINES THAT THE INFORMATION OR DOCUMENTS  
29 SUBMITTED BY THE APPLICANT ARE ALLEGEDLY FRAUDULENT, THE DEPARTMENT SHALL:

30       1. IF THE APPLICANT HAS RECEIVED A TEMPORARY DRIVER PERMIT OR  
31 NONOPERATING IDENTIFICATION LICENSE PURSUANT TO SECTION 28-3157, CANCEL THE  
32 TEMPORARY DRIVER PERMIT OR NONOPERATING IDENTIFICATION LICENSE AND NOTIFY THE  
33 APPLICANT BY FIRST CLASS MAIL THAT THE TEMPORARY DRIVER PERMIT OR  
34 NONOPERATING IDENTIFICATION LICENSE IS CANCELED AND THAT THE APPLICANT MAY  
35 REQUEST A HEARING AS PRESCRIBED IN THIS SECTION.

36       2. NOTIFY THE APPLICANT BY FIRST CLASS MAIL THAT THE DEPARTMENT WILL  
37 NOT ISSUE THE DRIVER LICENSE, DRIVER PERMIT OR NONOPERATING IDENTIFICATION  
38 LICENSE FOR WHICH THE APPLICANT APPLIED AND THAT THE APPLICANT MAY REQUEST A  
39 HEARING AS PRESCRIBED IN THIS SECTION.

40       G. ON AN APPLICANT'S REQUEST, THE DEPARTMENT SHALL PROVIDE AN  
41 OPPORTUNITY FOR A HEARING ON THE ACTION TAKEN PURSUANT TO THIS SECTION AS  
42 EARLY AS PRACTICABLE BUT NOT LATER THAN THIRTY DAYS AFTER RECEIPT OF THE  
43 REQUEST. THE DEPARTMENT SHALL HOLD THE HEARING IN THE COUNTY IN WHICH THE  
44 APPLICANT RESIDES.

1 H. IF A HEARING IS HELD, THE DEPARTMENT OR ITS AUTHORIZED AGENT MAY  
2 ADMINISTER OATHS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES AND THE  
3 PRODUCTION OF RELEVANT BOOKS AND PAPERS AND REQUIRE A REEXAMINATION OF THE  
4 DOCUMENTS SUBMITTED BY THE APPLICANT FOR A DRIVER LICENSE, DRIVER PERMIT OR  
5 NONOPERATING IDENTIFICATION LICENSE.

6 I. IF THE APPLICANT'S TEMPORARY DRIVER PERMIT OR NONOPERATING  
7 IDENTIFICATION LICENSE WAS CANCELED, AT THE HEARING THE DEPARTMENT SHALL  
8 EITHER UPHOLD ITS ORDER OF CANCELLATION OR RESCIND ITS ORDER OF CANCELLATION  
9 AND PROCESS THE APPLICATION FOR A DRIVER LICENSE, DRIVER PERMIT OR  
10 NONOPERATING IDENTIFICATION LICENSE. IF GOOD CAUSE EXISTS, THE DEPARTMENT  
11 MAY EXTEND THE TEMPORARY DRIVER PERMIT OR NONOPERATING IDENTIFICATION  
12 LICENSE.

13 J. IF THE APPLICANT WAS NOT ISSUED A TEMPORARY DRIVER PERMIT OR  
14 NONOPERATING IDENTIFICATION LICENSE PURSUANT TO SECTION 28-3157, THE  
15 DEPARTMENT SHALL EITHER UPHOLD ITS ORDER OF REFUSAL TO ISSUE A DRIVER  
16 LICENSE, DRIVER PERMIT OR NONOPERATING IDENTIFICATION LICENSE OR RESCIND ITS  
17 ORDER AND PROCESS THE APPLICATION FOR A DRIVER LICENSE, DRIVER PERMIT OR  
18 NONOPERATING IDENTIFICATION LICENSE.

19 K. THE REQUEST FOR A HEARING PURSUANT TO THIS SECTION DOES NOT STAY  
20 ANY ACTION BY THE DEPARTMENT.

21 Sec. 4. Reporting; caseloads

22 Beginning October 1, 2005, the director of the department of  
23 transportation shall file quarterly reports with the director of the joint  
24 legislative budget committee and the director of the office of strategic  
25 planning and budgeting relating to the number of cases the department is  
26 investigating pursuant to section 28-3323, Arizona Revised Statutes, as added  
27 by this act. The director of the department of transportation may include  
28 other information the director deems relevant relating to the department's  
29 duties and practices, including staff, training and equipment needs necessary  
30 to enforce section 28-3323, Arizona Revised Statutes, as added by this act.

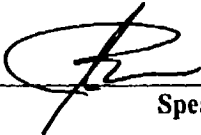
31 Sec. 5. Appropriation

32 The sum of \$721,700 is appropriated from the highway user revenue fund  
33 in fiscal year 2005-2006 to the Arizona department of transportation for the  
34 purposes provided in sections 1, 2, 3 and 4 of this act and for eight FTE  
35 positions.

Passed the House May 6, 20 05,

by the following vote: 53 Ayes,

3 Nays, 4 Not Voting



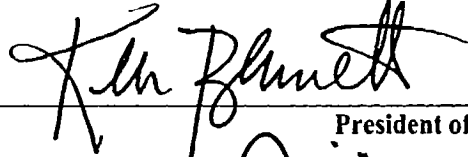
Speaker of the House

Norman L. Fyore  
Chief Clerk of the House

Passed the Senate May 6, 20 05,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting



President of the Senate

Charmine Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13th day of May, 2005

at 8:38 o'clock a. M.

Winnifer Lpharra  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**VETO**

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20th day of May, 2005,

at 3:03 o'clock P. M.

Janice K. Brewer  
Secretary of State

S.B. 1523